



COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 352, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 4, between lines 18 and 19, begin a new paragraph and insert:
2 "SECTION 4. IC 3-10-1-19, AS AMENDED BY P.L.77-2014,
3 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2017]: Sec. 19. (a) The ballot for a primary election shall
5 be printed in substantially the following form **described in this section**
6 for all the offices for which candidates have qualified under IC 3-8.
7 **(b) The following shall be printed as the heading for the ballot**
8 **for a political party:**
9 "OFFICIAL PRIMARY BALLOT
10 _____ Party (insert the name of the political
11 party)".
12 **(c) The following shall be printed immediately below the**
13 **heading required by subsection (b):**
14 **(1)** For paper ballots, print: To vote for a person, make a voting
15 mark (X or ✓) on or in the box before the person's name in the
16 proper column.
17 **(2)** For optical scan ballots, print: To vote for a person, darken or
18 shade in the circle, oval, or square (or draw a line to connect the
19 arrow) that precedes the person's name in the proper column.

(3) For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column.

(4) For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

~~Vote for one (1) only~~

~~Representative in Congress~~

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

☐ (4) GH _____

(b) **Subject to section 19.1 of this chapter**, local public questions shall be placed on the primary election ballot after the voting instructions described in subsection (a) and before the offices described in subsection (e).

(c) The local public questions described in subsection (b) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;
- (2) after the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-13-11 if voting is by ballot card; or
- (3) as provided by either of the following if voting is by an electronic voting system:

(A) On a separate screen for a public question.

(B) After the voting instructions described in subsection (a) and before the offices described in subsection (e), in the form specified in IC 3-11-14-3.5.

(d) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)

"Shall (insert public question)?"

☐ YES

☐ NO

(e) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

- 1 (2) Legislative offices:
2 (A) State senator.
3 (B) State representative.
- 4 (3) Circuit offices and county judicial offices:
5 (A) Judge of the circuit court, and unless otherwise specified
6 under IC 33, with each division separate if there is more than
7 one (1) judge of the circuit court.
8 (B) Judge of the superior court, and unless otherwise specified
9 under IC 33, with each division separate if there is more than
10 one (1) judge of the superior court.
11 (C) Judge of the probate court.
12 (D) Prosecuting attorney.
13 (E) Circuit court clerk.
- 14 (4) County offices:
15 (A) County auditor.
16 (B) County recorder.
17 (C) County treasurer.
18 (D) County sheriff.
19 (E) County coroner.
20 (F) County surveyor.
21 (G) County assessor.
22 (H) County commissioner. This clause applies only to a county
23 that is not subject to IC 36-2-2.5.
24 (I) Single county executive. This clause applies only to a
25 county that is subject to IC 36-2-2.5.
26 (J) County council member.
- 27 (5) Township offices:
28 (A) Township assessor (only in a township referred to in
29 IC 36-6-5-1(d)).
30 (B) Township trustee.
31 (C) Township board member.
32 (D) Judge of the small claims court.
33 (E) Constable of the small claims court.
- 34 (6) City offices:
35 (A) Mayor.
36 (B) Clerk or clerk-treasurer.
37 (C) Judge of the city court.
38 (D) City-county council member or common council member.
- 39 (7) Town offices:
40 (A) Clerk-treasurer.
41 (B) Judge of the town court.
42 (C) Town council member.

(f) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (e):

- (1) Precinct committeeman.
- (2) State convention delegate.

(g) The local offices to be elected at the primary election shall be placed on the primary election ballot after the offices described in subsection (f).

(h) The offices described in subsection (g) shall be placed:

- (1) in a separate column on the ballot if voting is by paper ballot;
- (2) after the offices described in subsection (f) in the form specified in IC 3-11-13-11 if voting is by ballot card; or
- (3) either:

- (A) on a separate screen for each office or public question; or
- (B) after the offices described in subsection (f) in the form specified in IC 3-11-14-3.5;

if voting is by an electronic voting system.

SECTION 5. IC 3-10-1-19.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: **Sec. 19.1. (a) This section applies only to a public question concerning the retention in office of a judge of the Marion County Superior Court under IC 33-33-49 who:**

- (1) files a statement under IC 33-33-49-13.2(b); and**
- (2) in the statement claims affiliation with a political party required to hold a primary election under this chapter.**

(b) The question of the retention of the judge at a primary election under IC 33-33-49 shall be placed only on the ballot of the political party with which the judge claims affiliation as provided in section 19 of this chapter.

SECTION 6. IC 3-11-2-10, AS AMENDED BY P.L.219-2013, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: **Sec. 10. (a) Public questions shall be placed on the general election ballot in the following order after the statement described in section 7 of this chapter, and the instructions described in subsections (d) and (e) and section 8 of this chapter:**

- (1) Ratification of a state constitutional amendment.
- (2) Local public questions.

Subject to section 10.1 of this chapter, each public question shall be placed in a separate column on the ballot.

(b) The name or title of the political party or independent ticket described in section 6 of this chapter shall be placed on the general election ballot after the public questions described in subsection (a).

The device of the political party or independent ticket shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device.

(c) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (insert political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot. If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

(d) If the ballot contains an independent ticket described in section 6 of this chapter and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(e) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted."

(f) **Subject to section 10.1 of this chapter**, the list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(g) The circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 7.IC 3-11-2-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2017]: **Sec. 10.1. (a) This section applies only to a public question concerning the retention in office of a judge of the Marion County Superior Court under IC 33-33-49 who satisfies either of the following:**

(1) The judge's retention has been approved in a primary election as provided in IC 33-33-49-13.2.

(2) The question of the judge's retention is required to be placed on the general election ballot under IC 33-33-49-13.2(d).

(b) The question of the retention of the judge at the general election shall be placed on the ballot:

(1) immediately under the instructions for voting a straight party ticket; and

(2) above the candidates of the political party with which the judge has claimed affiliation.

(c) If a judge does not claim affiliation with a political party, the question of the judge's retention shall be placed on the ballot at the same row or column level of the ballot where the question of other judges is placed on the ballot but in a column or row where independent candidates are placed on the ballot.

SECTION 8. IC 3-13-6-1, AS AMENDED BY P.L.194-2013, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2017]: Sec. 1. (a) As used in this section, "judge" refers to a judge of a circuit, superior, or probate court.

(b) If a judge wants to resign from office, the judge must resign as provided in IC 5-8-3.5.

(c) A vacancy that occurs because of the death of a judge may be certified to the governor under IC 5-8-6.

(d) A vacancy that occurs, other than by resignation or death of a judge, shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(e) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. However, the governor may not fill a vacancy that occurs because of the death of a judge until the governor receives notice of the death under IC 5-8-6.

(f) The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election for the office, and qualified;

whichever occurs first.

(g) Except as provided in this subsection, the office of judge of the circuit court shall be elected at the next general election following the date any vacancy occurred. If a vacancy occurs in the office of judge of the circuit court after noon seventy-four (74) days before a general election, the office shall be elected at the second general election following the date any vacancy occurred.

(h) The person elected at the general election following an

1 appointment to fill the vacancy, upon being qualified, holds office for
 2 the six (6) year term prescribed by Article 7, Section 7 of the
 3 Constitution of the State of Indiana and until a successor is elected and
 4 qualified.

5 (i) A vacancy in the office of judge of a superior or probate court
 6 shall be filled by the governor subject to the following:

7 (1) IC 33-33-2-39.

8 (2) IC 33-33-2-43.

9 (3) IC 33-33-45-38.

10 (4) IC 33-33-71-40.

11 **(5) IC 33-33-49-13.3.**

12 However, the governor may not fill a vacancy that occurs because of
 13 the death of a judge until the governor receives notice of the death
 14 under IC 5-8-6. The person who is appointed holds office for the
 15 remainder of the unexpired term."

16 Page 5, line 33, delete "sixteen (16)" and insert **"twenty (20)"**.

17 Page 5, line 42, delete "eight (8)" and insert **"four (4)"**.

18 Page 5, line 42, delete "twenty (20)" and insert **"sixteen (16)"**.

19 Page 6, line 3, delete "four (4)" and insert **"eight (8)"**.

20 Page 6, line 6, delete "eight (8)" and insert **"four (4)"**.

21 Page 6, delete lines 37 through 42, begin a new paragraph and
 22 insert:

23 **"(b) A judge who wishes to be retained in office shall file a**
 24 **statement with the clerk during the period described in IC 3-8-2-4**
 25 **during which a declaration of candidacy must be filed in the year**
 26 **in which the judge's term expires. The judge's statement must**
 27 **include the following information:**

28 **(1) A statement indicating that the judge wishes to have the**
 29 **question of the judge's retention placed on the ballot.**

30 **(2) A statement of the judge's name as:**

31 **(A) the judge wants the judge's name to appear on the**
 32 **ballot; and**

33 **(B) a candidate's name is permitted to appear on the ballot**
 34 **under IC 3-5-7.**

35 **(3) If the judge is affiliated with a political party, the name of**
 36 **that political party. The judge may indicate in the statement**
 37 **that the judge is not affiliated with a political party. For**
 38 **purposes of this subdivision, a judge's affiliation with a**
 39 **political party is determined as provided in IC 3-8-2-7(a)(4).**

40 **(4) A statement that the judge requests the name on the**
 41 **judge's voter registration record be the same as the name the**
 42 **judge uses on the statement. If there is a difference between**

the name on the judge's statement and the name on the judge's voter registration record, the clerk shall change the name on the judge's voter registration record to be the same as the name on the judge's statement.

If a judge does not file a statement under this subsection, the clerk shall, not later than March 1, notify the Marion County judicial selection committee in writing that the judge does not wish to continue in office after the end of the judge's term of office.

(c) If a judge claims affiliation with a political party required to conduct a primary election under IC 3-10-1, the question of the judge's retention shall be placed on the primary election ballot as provided in IC 3-10-1.

(d) This subsection applies to a judge who does not claim affiliation with a political party required to conduct a primary election under IC 3-10-1. A public question regarding retention of the judge shall be placed on the general election ballot as provided in 3-11-2 and this chapter.

(e) This subsection applies to a judge:

- (1) who does not file a statement under subsection (b); and
- (2) whose term expires during the year in which the question of the retention of the judge would have been placed on the general election ballot.

The term of a judge expires December 31 of the year in which the question of the judge's retention would have been placed on the ballot.

(f) This section applies to a judge:

- (1) who files a statement under subsection (b); and
- (2) whose retention is rejected by the electorate during the primary election or general election.

The term of a judge whose retention is rejected by the electorate during the primary election or general election ends when the judge's term expires. However, if the judge has filed a petition for a recount under IC 3-12-6, the term of the judge does not end until the recount commission has issued a certificate under IC 3-12-6-22 stating that the electorate has rejected the retention of the judge.

(g) This subsection applies only to the question of the retention of a judge placed on a primary election ballot. The question of approval or rejection of a judge shall be placed on the primary election ballot in the form prescribed by IC 3-10-1 and must state:

"Shall Judge (insert here the name of the judge as stated under subsection (b)(2)) be retained in office?".

If a majority of the ballots cast by the electors voting on the

question in the primary election is "Yes", a public question on the retention of the judge shall be placed on the general election ballot as provided in subsection (h). If a majority of the ballots cast by the electors voting on the question is not "Yes", the following apply:

(1) The judge whose name appeared on the question is rejected.

(2) A public question on the retention of the judge may not be placed on the general election ballot.

(3) The clerk shall, not later than July 1, notify the Marion County judicial selection committee in writing that the judge is not eligible to have the question of the judge's retention placed on the general election ballot.

(4) The office of the judge becomes an open judicial seat on January 1 following the general election.

(5) The open judicial seat shall be filled by appointment by the committee under section 13.3 of this chapter.

(h) This subsection applies only to the question of the retention of a judge placed on a general election ballot. If the question of a judge's retention is required to be on the ballot at a general election, the question of approval or rejection of the judge shall be placed on the general election ballot in the form prescribed by IC 3-11-2 and must state:

"Shall Judge (insert here the name of the judge as stated under subsection (b)(2)) be retained in office?".

If a majority of the ballots cast by the electors voting on the question is "Yes", the judge whose name appeared on the question shall be approved for a six (6) year term beginning January 1 following the general election as provided in section 13.1 of this chapter. If a majority of the ballots cast by the electors voting on the question is not "Yes", the following apply:

(1) The judge whose name appeared on the question is rejected.

(2) The office of the rejected judge becomes an open judicial seat on January 1 following the rejection.

(3) The open judicial seat shall be filled by appointment by the committee under section 13.3 of this chapter."

- 1 Delete page 7.
- 2 Page 8, delete lines 1 through 3.
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 352 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 5, Nays 2.

Senator Steele, Chairperson